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OCT 28 2004

In re Application of
Boris Belyi et al.
Application No. 10/671,000
Filed: September 25, 2003
Attorney Docket No. 1DATA.043A

OFFICE OF PETITIONS

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:
: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(b)
:

This is a decision on the renewed petition filed under 37 CFR 1.47(b) on September 30, 2004.

The renewed petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed September 25, 2003, without an executed oath or declaration. Accordingly, on December 19, 2003, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. On June 21, 2004 a petition under 37 CFR 1.47(b) was filed and dismissed in a decision mailed July 26, 2004 because the petition lacked items 2, 5 and 6 of 37 CFR 1.47(b)¹. An oath or declaration executed by Ken Algiene on behalf of First Data Corporation, proof of proprietary interest and of irreparable harm have been submitted with the instant

¹A grantable petition under 37 CFR 1.47(b) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee;
- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest, and
- (6) proof of irreparable damage.

petition but, the renewed petition still lacks item (2).

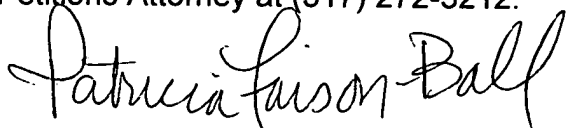
The declaration filed September 30, 2004 is defective in that it does not state that the person(s) making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person(s) to be material to patentability as defined in 37 CFR 1.56 nor does it comply with 37 CFR 3.73 in that the putative assignee has not established its right to take action in accordance with 37 CFR 3.73(b). Specifically, petitioners have not provided documentary evidence of a chain of title from the original owner to the assignee, nor shown that documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*i.e.* reel and frame number). Petitioners must establish the right of an assignee to take action in accordance with 37 CFR 3.73(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (517) 272-3212.

A handwritten signature in cursive script, reading "Patricia Faison-Ball". The signature is written in black ink and is positioned above the printed name and title.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions